

**Office of  
The City Attorney  
City of San Diego**

**MEMORANDUM  
MS 59**

**(619) 236-6220**

**DATE:** August 21, 2006

**TO:** Elizabeth Maland, City Clerk

**FROM:** Michael J. Aguirre, City Attorney

**SUBJECT:** Title, Summary, and City Attorney Impartial Analysis for Ballot Measure –  
Charter Amendment to Allow for Contracting Out of City Services

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The City Council has directed the City Attorney to prepare an impartial analysis of a measure the City Council has approved for submission to the voters on the November 7, 2006 ballot. The measure seeks voter approval to amend the City Charter to allow the City to enter contracts with independent contractors for certain services traditionally performed by City civil service employees. The measure was approved as Ordinance O-19474 on March 27, 2006. The measure has been designated as “Proposition C” by the Registrar of Voters.

**Official Title and Summary**

The City Council approved the official title and summary as follows:

**PROPOSITION C. AMENDS THE CITY CHARTER TO  
ALLOW FOR CONTRACTING OUT OF CITY SERVICES**

Shall the Charter be amended to allow the City to contract services traditionally performed by City civil service employees if determined to be more economical and efficient while maintaining the quality of services and protecting the public interest?

**City Attorney’s Impartial Analysis**

The City Council has authorized the placement of a proposition on the ballot seeking voter approval to amend Article VIII, section 117 of the San Diego City Charter.

Section 117 creates a civil service system that restricts the City's ability to employ independent contractors to perform public services traditionally performed by City employees. State law permits the City to employ independent contractors to provide public services under limited circumstances. If adopted, this measure would amend section 117 by adding subsection (c), which would allow the City to employ an independent contractor as an alternative to the classified service when the City Manager determines, subject to City Council approval, that City services can be provided more economically and efficiently by a contractor while maintaining service quality and protecting the public interest.

During the time the City operates under the Strong Mayor form of government established by Article XV of the City Charter, all references to the City Manager in the measure refer to the Mayor.

If approved, this measure will require the City Council to pass an ordinance to provide procedural details to implement the requirements of the Charter amendment; to set minimum contract standards; and to protect the quality and reliability of public services.

This measure permits City Departments and independent contractors to submit proposals to provide public services.

This measure directs the City Manager to establish the Managed Competition Independent Review Board ["Board"]. The Board will advise the City Manager whether City employees or an independent contractor may provide certain public services more economically and efficiently while maintaining service quality and protecting the public interest. The City Manager will appoint the seven Board members, who will include three City employees and four private citizens. The City Council must approve the appointments of the four citizen Board members. Citizen Board members must have specific professional experience. Board members may not have conflicts of interest with their duties as Board members, and may not be employed by any contractor selected by the City for the duration of the contract.

If the Board recommends that an independent contractor provide public services, the measure provides that the City Manager may choose to have the City Department continue to provide the services, or accept the Board's recommendation to employ an independent contractor. If the City Manager accepts the Board's recommendation to employ an independent contractor, the City Manager must forward the recommended and proposed agreement to the City Council. The City Council must accept or reject the proposed agreement in its entirety.

The measure gives the City Manager sole responsibility to administer and monitor any approved agreements with independent contractors. The City Manager must produce annual performance audits for contracted services and seek an independent audit every five years to evaluate the City's experience.

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This ballot measure will take effect if passed by a majority of the City's voters.

MICHAEL J. AGUIRRE, City Attorney

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